

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Contentions and Conclusions**

**Petition No.:** 15-021-18-1-1-01345-18  
**Petitioners:** Raymond & Rachel Cook  
**Respondent:** Dearborn County Assessor  
**Parcel No.:** 15-09-14-300-008.000-021  
**Assessment Yr.:** 2018

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, finding and concluding as follows:

**Procedural History**

1. Rachel and Raymond Cook filed a Form 130 notice contesting their assessment. Although the notice did not specify any grounds for relief, Rachel Cook<sup>1</sup> later claimed that she was denied a deduction provided to homeowners who are 65 or older and that the property was assessed too high in light of its condition. On December 7, 2018, the Dearborn County Property Tax Assessment Board of Appeals (“PTABOA”) issued a determination. The PTABOA did not discuss the claimed deduction, but it determined the following assessment:

<b>Land</b>	<b>Improvements</b>	<b>Total</b>
\$87,400	\$95,500	\$182,900

2. Cook timely filed a Form 131 petition with us reiterating her claim that the property was over-assessed and that she was improperly denied the 65-or-older deduction. She elected to proceed under our small claims procedures. On June 4, 2019, Jeremy Owens, our designated administrative law judge (“ALJ”), held a hearing on Cook’s petition. Neither he nor the Board inspected the property.
3. Cook appeared *pro se*. The Assessor appeared by her attorney Andrew Baudendistel. Cook, Dearborn County Assessor Megan Acra, and Hope White, office manager for the Dearborn County Auditor, were sworn-in and testified.

**Record**

4. The parties offered the following exhibit:

Respondent’s Exhibit 1: Forms 114, 115, 130, 131, and 134; subject property record card

---

<sup>1</sup> Raymond Cook passed away after the Cooks initiated this appeal. We will refer to Rachel Cook as the taxpayer.

5. The record also includes the following: (1) all petitions, motions, or other documents filed in this appeal; (2) all orders and notices issued by the Board or our ALJ; and (3) a digital recording of the hearing.

## **Contentions**

### Cook's Contentions:

6. Although Cook believed that her property was assessed too high, she did not propose a lower value. She claimed that her property is rundown and needs repair. She also testified about a dispute with a neighbor who built a fence on top of the waterline, which causes water to run off a nearby highway down to her house. The water runs across her driveway, washing off the gravel and sand, and she cannot afford to dig a culvert to fix the problem. *Cook testimony.*
7. Cook believes she qualifies for the 65-or-older deduction. According to Cook, someone from the Assessor's office previously told her she would get the deduction, but she has not yet received it. *Cook testimony.*

### The Assessor's Contentions:

8. As for Cook's valuation claim, the Assessor argued that the assessment already accounts for all of the property's depreciation. And the Assessor's office is not the appropriate place to resolve any dispute she may have with her neighbor. *Acra testimony; Baudendistel argument.*
9. Hope White, the Auditor's office manager, explained that Cook was not entitled to the 65-or-older deduction for the year under appeal. For a taxpayer to be eligible for that deduction in 2018, a taxpayer's property could not be assessed for more than \$182,430. Cook's assessment of \$182,900 exceeded that ceiling. The ceiling increased for 2019, and Cook might be eligible for the deduction going forward. *White testimony; Baudendistel argument.*

## **Discussion**

10. Cook made two claims: that the PTABOA valued her property too high, and that the Auditor improperly removed her 65-or-older deduction. We will address each in turn, beginning with her valuation claim.

### **A. Cook failed to make a prima facie case for reducing her assessment**

11. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proof. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances—where the assessment under appeal represents an increase of more than 5% over the prior year's assessment, or where it is above the level determined in a taxpayer's successful appeal of

the prior year's assessment. I.C. § 6-1.1-15-17.2(b), (d). Because the property's assessment (excluding deductions) decreased between 2017 and 2018, Cook bears the burden in this appeal.

12. The goal of Indiana's real property assessment system is to arrive at an assessment reflecting the property's true tax value. 50 IAC 2.4-1-1(c); 2011 REAL PROPERTY ASSESSMENT MANUAL at 3. True tax value does not mean "fair market value" or "the value of the property to the user." I.C. § 6-1.1-31-6(c), (e). It is instead determined under the rules of the Department of Local Government Finance ("DLGF"). I.C. § 6-1.1-31-5(a); I.C. § 6-1.1-31-6(f). The DLGF defines true tax value as "market value in use," which it in turn defines as "[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." MANUAL at 2.
13. All three standard appraisal approaches—the cost, sales-comparison, and income approaches—are appropriate for determining true tax value. MANUAL at 2. In an assessment appeal, parties may offer any evidence relevant to a property's true tax value, including appraisals prepared in accordance with generally recognized appraisal principles. *Id.* at 3; *see also Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006) (reiterating that a market value-in-use appraisal that complies with the Uniform Standards of Professional Appraisal Practice is the most effective method for rebutting the presumption that an assessment is correct).
14. Cook testified that the property was deteriorated. She also testified to problems with water run-off from the highway. Those issues might well affect her property's value. But Cook did not offer any market based evidence to quantify that effect. She did not even propose a value for the property. She therefore failed to make a prima facie case for reducing her assessment.

#### **B. Cook was not entitled to the 65-or-older deduction for 2018**

15. Cook's deduction claim similarly fails. Indiana Code § 6-1.1-12-9 provides a deduction for qualifying homeowners who are 65 or older. There are several eligibility requirements, including a requirement that the assessment to which the taxpayer seeks to apply the deduction cannot exceed a specified value. In 2018, the year at issue in this appeal, that value was \$182,430. I.C. § 6-1.1-12-9(a)(5) (2018).<sup>2</sup> Because Cook's property was assessed at \$182,900, she did not qualify for the deduction.

#### **Final Determination**

16. We find for the Assessor and order no change to the 2018 assessment. We similarly find that Cook was not entitled to a deduction under Ind. Code § 6-1.1-12-9.

---

<sup>2</sup> The legislature substantially amended the statute in 2019. It allows the deduction for properties with assessments that do not exceed \$200,000. 2019 Ind. Acts. 114, § 1; I.C. § 6-1.1-12-9(a)(6) (2019).

Issued: August 23, 2019

---

Chairman, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

---

Commissioner, Indiana Board of Tax Review

**- APPEAL RIGHTS -**

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required not later than forty-five (45) days after the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.